

**REMARKS**

With entry of this amendment, claims 1-5 and 7-45 are pending in this application. Of these, claims 1-5 and 7-27 stand rejected, and claims 28-45 have been newly added. Applicant notes that the foregoing claim amendments have been made to remove superfluous language and to generally make the claims more readable, and thus, should not be construed to be made in response to any current claim rejection or anticipated subsequent claim rejection.

Based on the foregoing amendments and following remarks, reconsideration and allowance of this application is respectfully requested.

**Claim Rejections-35 U.S.C. §102**

Claims 1-5, 10-22, 26, and 27 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 5,982,753 (“Pendleton”). Applicant respectfully traverses the rejections of these claims, since Pendleton does not disclose each and every element recited in claims 1-5, 10-22, 26, and 27.

In particular, the Examiner has pointed to two different embodiments to show that Pendleton discloses a single embodiment that both monitors network traffic through a mirrored port and determines port information, as required in claim 1. In fact, there is no single embodiment in Pendleton that performs these functions. The analyzer 10 illustrated in Fig. 1 of Pendleton, which is presented as prior art, monitors network traffic through mirror port 12, but is not disclosed as having the capability of determining port information corresponding to the data packets within the network traffic. In contrast, the test instrument 100 illustrated in Fig. 2 of Pendleton determines port information, but does not monitor network traffic through a mirror port 12—rather a regular port on the switch 14. There is no suggestion to combine the Fig. 1 and Fig. 2 embodiments, especially

since Pendleton makes clear that the test instrument 100 is not to be connected to a mirror port. (See col. 5, lines 54-58; col. 6, lines 17-21).

Even if the different embodiments disclosed in Pendleton could somehow be combined, such combination would not result in the invention of independent claims 1 and 14. In particular, these claims require the port information that is determined to be of the extracted network address information. Although the test analyzer 100 of Pendleton determines port information, it is not of any network address information that is extracted from data packets. Instead, the test analyzer 100 passively monitors the network traffic to detect and identify “clients, servers, switches, and routers”—not port information of a switch. (see col. 7, lines 55-60). The test analyzer 100 does obtain port information contained in error reports acquired from MIBs, but such port information is not of any network address information that has been extracted from data packets. (see col. 8, lines 7-37).

Thus, Applicant submits that independent claims 1 and 14, and the claims depending therefrom (claims 2-5, 10-13, 15-22, 26, and 27) are not anticipated by Pendleton, and as such, respectfully requests withdrawal of the §102 rejections of these claims.

#### Claim Rejections-35 U.S.C. §103

Claims 7-9 and 23-25 stand rejected under 35 U.S.C. §103 as being obvious over Pendleton in view of U.S. Patent No. 4,922,488 (“Niestegge”). Applicant traverses this rejection, since neither Pendleton nor Niestegge, alone or in combination, disclose, teach, or suggest the combination of elements required by these claims. In particular, claims 7-9 and 23-25 depend from respective independent claims 1 and 14, which are believed to be patentable over Pendleton as stated above, and Niestegge does not supplement the failed teaching of this combination.

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New Claims

Applicant submits that newly added claims 28-45 find support in the specification, as originally filed, and are patentable over the prior art of record.

Conclusion

Based on the foregoing, all claims pending in the application are believed to be allowable and a Notice of Allowance is respectfully requested. If the Examiner has any questions or comments regarding this amendment, the Examiner is respectfully requested to contact the undersigned at (714) 830-0600.

Respectfully submitted,

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